
Book Review

Martin Davies and Anthony Dickey, *Shipping Law*. 3rd ed. Sydney: Lawbook Co, 2004. cx, 747pp. [ISBN 0455 22081 6]

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This text will be well known to all Australian maritime lawyers and professionals in the maritime field since its first edition was published in 1990, and hardly needs much of an introduction. The third edition generally maintains the successful format of the previous two editions, while considerably updating the second edition after a gap of nine years. Given this text's pedigree and repute, this review will simply describe the contents of the new edition and offer a few suggestions for an inevitable fourth edition.

First impressions count, and in this case first impressions did indeed impress. The book is produced to a high standard with an attractive cover, detailed table of contents and an easily readable type. Running in at a little over 850 pages, the text is substantial, but presented compactly.

The division of work between the authors is by chapter, and while Anthony Dickey produced 12 of the 21 chapters, the 9 chapters of Martin Davies comprise more than two thirds of the book. This, in large part, is the result of a substantial consideration of the law of carriage of goods by sea.

The division of the book is as would be expected from a text which is likely to be extensively used as a textbook for students and follows the format of the previous editions. Yet, its content is equally suited to practitioners and other professional in the maritime field. The authors have finally balanced the needs of an introductory text suitable to law students with little exposure to the maritime field, and thus a need for explanation of the underlying maritime principles, and the needs of practitioners who require a concise and accurate statement of the existing law. This approach is exemplified in the first chapter, which seeks to define the subject matter of the book – Shipping Law – by setting out in fine detail the differences in the use of the term 'ship' and 'boat' in its various legislative guises. This should leave students in no doubt as to the difficulties in statutory interpretation in this field!

While not solely a student text, and therefore not pandering to undergraduate needs, this text may have benefited by an approach exemplified by Gold, Chircop and Kindred's, *Essentials of Canadian Law: Maritime Law*² in providing an introductory chapter that sets shipping law in the wider maritime context. In particular, setting Australia's place in the international and regional maritime trade may have provided some context for the book. While this may appear somewhat overindulgent, it is appreciated by students of maritime law.

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¹ Edgar Gold, Aldo Chircop and Hugh Kindred, *Essentials of Canadian Law: Maritime Law*. Toronto: Irwin Law, 2003.

² Edgar Gold, Aldo Chircop and Hugh Kindred, *Essentials of Canadian Law: Maritime Law*. Toronto: Irwin Law, 2003.

The second chapter provides a comprehensive account of the division of shipping law powers in Australia. Often a complex and rather dry subject matter, the chapter is well organised and clearly and concisely explained. The former chapter 3 in the previous edition of this text has been divided into two chapters in this edition; the first retains the heading 'Registration', while the new chapter 4 is entitled 'Consequences of registration'. The chapter on Registration includes a brief description of the 1997 proposal for reform of ship registration in Australia.³ While this is concisely described, this section may have benefited from some explanation as to the causes and policy that underlies this proposal.

Chapters 5 and 6, entitled 'Property, Ownership and Title' and 'Acquisition of Property in Ships' respectively, concisely detail the law, and in most respects cover the same material as the previous editions. Chapters 7 to 10 cover charges over ships. While this structure follows that of the second edition, the division of these chapters is a little unusual. In particular, chapter 7 acts as a brief (5 page) introduction to the following three chapters. This may be usual in a book divided into Parts, but this is not. While chapter 8 on Maritime Liens covers the subject matter in detail, it includes matters which do not support a maritime lien and therefore might have better been covered in a separate chapter together with some of the material in chapters 7 and 9. The latter chapter concerns bottomry bonds which, as the authors note, are obsolete and thus requires little discussion,⁴ together with possessory liens which could be covered in a separate chapter as discussed above. A little reorganisation would suit the comprehensive and erudite coverage of the subject matter of these three chapters and consideration might be given to reverting to the structure used in the first edition of this text. The fourth chapter (chapter 10) on charges concerns mortgages and details this in a similar fashion as in previous editions.

Chapters 11 to 14 concern the carriage of goods by sea, beginning in chapter 11 with an introduction to the following three chapters. While, as previously discussed, the use of such an introductory chapter is better suited to a text divided into parts, this chapter does include two useful scenarios which exemplify the complexities of this area of maritime law, and are most useful for law students. The authors draw attention to the extent to which chapter 12, on bills of lading, sea waybills and other sea-carriage documents, has been updated from previous editions. New material includes consideration of the new state and territory Sea-Carriage Documents Acts, the Hague-Visby Rules in their Australian modified versions and consideration of the High Courts decision in *Great China Metal Industries Co Ltd v Malaysian International Shipping Corp Berhad*,⁵ which the authors contend admiralty courts ought to ignore.⁶ Chapters 13 and 14 on voyage and time charterparties respectively are substantially similar to those of the previous edition.

Chapters 15 to 18 cover collision and liability for damage, limitation of liability, marine insurance and general average. The format of these chapters follows that of the previous edition and simply updates the text where necessary.

The second chapter that required substantial revision was chapter 19 dealing with marine pollution from ships. The additional material describes the two-tier system of compensation (1992 CLC and 1992 Fund Conventions together with the 2003

³ Pp. 55-56.

⁴ P. 95.

⁵ (1998) 196 CLR 161.

⁶ P. v.

amendments) and gives consideration to the consequences of *Morrison v Peacock*,⁷ including the legislative response to the decision. Chapter 20 on salvage also required some amendment to take into account the coming into force in Australia of the *1989 International Convention on Salvage*. The final chapter concerns wrecks, including historic wrecks, and covers substantially similar material to the previous edition.

A difficulty faced by the authors in the compilation of this text is the number of documents to be included in the Appendices. These have grown in each edition of the text and take up seventy-five pages. While these appendices do provide students with valuable examples, care needs to be taken to ensure that these examples do not proliferate beyond meeting this narrow need.

This third edition continues and improves the successful format, content and succinct critical analysis of Australian shipping law of previous editions. While essential to maritime lawyers and other professionals in the field, it will undoubtedly be the core text of any maritime law course in Australia, and a most valuable text for maritime law students in all parts of the world.

⁷ (2002) 210 CLR 274.